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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 VICKI LYNN MILLER
a.k.a. VICKI LYNN BEACHLER
15 1830 E. Ocean Blvd., Apt. 809
Long Beach, CA 90802

16 Registered Nurse License No. 409555
Public Health Nurse Advanced Certification No. 53468

17 Respondent.

Case No. 2007-70

OAH No. L-2008030577

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

18 FINDINGS OF FACT

19 1. On or about September 21, 2006, Complainant Ruth Ann Terry, M.P.H.,
20 R.N., in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs, filed Accusation No. 2007-70 against Vicki Lynn Miller a.k.a.
22 Vicki Lynn Beachler (Respondent) before the Board of Registered Nursing.

23 2. On or about March 31, 1987, the Board of Registered Nursing (Board)
24 issued Registered Nurse License No. 409555 to Respondent. The Registered Nurse License was
25 in full force and effect at all times relevant to the charges brought herein and expired on June 30,
26 2008.

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1 3. On or about March 31, 1987, the Board of Registered Nursing issued
2 Public Health Nurse Advanced Certification No. 53468 to Respondent.

3 4. On or about October 4, 2006, Louise Steinberg, an employee of the
4 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
5 2007-70, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
6 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
7 which was and is:

8 Vicki Lynn Miller
9 aka Vicki Lynn Beachler
10 1830 E. Ocean Blvd., Apt. 809
11 Long Beach, CA 90802.

12 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

13 5. Service of the Accusation was effective as a matter of law under the
14 provisions of Government Code section 11505, subdivision (c).

15 6. On or about August 9, 2007, the Board of Registered Nursing, upon
16 Respondent's request agreed to set aside a previous default that was entered against Respondent.
17 On April 17, 2008 Notice of Hearing was sent to Respondent informing her of the new hearing
18 date and time. The new hearing date was July 9, 2008. Respondent failed to appear at the
19 hearing.

20 7. Government Code section 11506 states, in pertinent part:

21 (c) The respondent shall be entitled to a hearing on the merits if the
22 respondent files a notice of defense, and the notice shall be deemed a specific
23 denial of all parts of the accusation not expressly admitted. Failure to file a notice
24 of defense shall constitute a waiver of respondent's right to a hearing, but the
25 agency in its discretion may nevertheless grant a hearing.

26 8. California Government Code section 11520 states, in pertinent part:

27 (a) If the respondent either fails to file a notice of defense or to appear at
28 the hearing, the agency may take action based upon the respondent's express
admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 409555, heretofore issued to Respondent Vicki Lynn Miller a.k.a. Vicki Lynn Beachler, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on December 17, 2008.

It is so ORDERED November 17, 2008

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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LA2006600681

Attachment:

Exhibit A: Accusation No.2007-70

Exhibit A
Accusation No. 2007-70

1 BILL LOCKYER, Attorney General
of the State of California
2 MICHEL W. VALENTINE, State Bar No. 153078
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300 So. Spring Street, Suite 1702
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6 Attorneys for Complainant

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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

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11 In the Matter of the Accusation Against:

Case No. *2007-70*

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VICKI LYNN MILLER
a.k.a. VICKI LYNN BEACHLER
1830 E. Ocean Blvd., Apt. 809
Long Beach, CA 90802

Registered Nurse License No. 409555
Public Health Nurse Advanced Certification No. 53468

Respondent.

ACCUSATION

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs (Board).
2. On or about March 31, 1987, the Board issued Registered Nurse License No. 409555 to Vicki Lynn Miller a.k.a. Vicki Lynn Beachler (Respondent). Subsequently, the Board issued Public Health Nurse Advanced Certification No. 53468 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein. The Registered Nurse License and Public Health Nurse Advanced Certification will expire on June 30, 2008, unless renewed.

JURISDICTION

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3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 states, in pertinent part:
“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- “(a) Unprofessional conduct, . . .
-

“(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . .”

7. Section 2762 states, in pertinent part:
“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

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- “(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or

1 injurious to himself or herself, any other person, or the public or to the extent that such use
2 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
3 license.

4 “(c) Be convicted of a criminal offense involving the prescription, consumption,
5 or self-administration of any of the substances described in subdivisions (a) and (b) of this
6 section, or the possession of, or falsification of a record pertaining to, the substances described in
7 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
8 thereof.

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10 “(d) Be committed or confined by a court of competent jurisdiction for
11 intemperate use of or addiction to the use of any of the substances described in subdivisions (a)
12 and (b) of this section, in which event the court order of commitment or confinement is prima
13 facie evidence of such commitment or confinement. . . .”

14 8. Section 490 states:

15 “A board may suspend or revoke a license on the ground that the licensee has
16 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
17 duties of the business or profession for which the license was issued. A conviction within the
18 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
19 contendere. Any action which a board is permitted to take following the establishment of a
20 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
21 been affirmed on appeal, or when an order granting probation is made suspending the imposition
22 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
23 Penal Code.”

24 9. California Code of Regulations, title 16, section 1444, states, in pertinent
25 part:

26 “A conviction or act shall be considered to be substantially related to the
27 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
28 present or potential unfitness of a registered nurse to practice in a manner consistent with the

1 public health, safety, or welfare. . . .”

2 10. Section 118, subdivision (b) states:

3 “The suspension, expiration, or forfeiture by operation of law of a license issued
4 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or
5 by order of a court of law, or its surrender without the written consent of the board, shall not,
6 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board
7 of its authority to institute or continue a disciplinary proceeding against the licensee upon any
8 ground provided by law or to enter an order suspending or revoking the license or otherwise
9 taking disciplinary action against the licensee on any such ground.”

10 11. Section 125.3 provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations
12 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

15 12. Oxazepam is a benzodiazepine and a Schedule III controlled substance
16 pursuant to Health and Safety Code section 11056(b)(2) and categorized as a dangerous drug
17 pursuant to Business and Professions Code section 4022.

18 FIRST CAUSE FOR DISCIPLINE

19 (Unprofessional Conduct - Dangerous Use of Controlled Substances/Alcohol)

20 13. Respondent is subject to disciplinary action under Sections 2750, 2761,
21 subdivision (a), on the grounds of unprofessional conduct as defined in Section 2762,
22 subdivision (b), in that on or about December 17, 2004, at 5:45 pm, while on duty as a registered
23 nurse during the 7:00 am to 7:00 pm shift at Orange Coast Medical Center, Fountain Valley,
24 California, Respondent used controlled substances/dangerous drugs and alcohol to an extent or in
25 a manner dangerous or injurious to herself. Respondent tested positive for:

26 Oxazepam, a controlled substance and dangerous drug, and

27 Alcohol, 0.221% tested blood alcohol content (BAC).

28 SECOND CAUSE FOR DISCIPLINE

1 (Convictions of Substantially Related Crimes)

2 14. Respondent is subject to disciplinary action under Section 2750, 2761,
3 subdivision (f), and 490, on the grounds that Respondent was convicted of crimes substantially
4 related to the qualifications, functions, or duties of a registered nurse as defined in California
5 Code of

6 ///

7 Regulations, title 16, section 1444. The convictions are as follows:

8 DUI

9 a. On or about January 13, 1998, in a criminal proceeding entitled *The*
10 *People of the State of California v. Vicki Lynn Miller* in Los Angeles County Municipal Court,
11 Bellflower Courthouse Judicial District, Case No. 7LC04751, Respondent was convicted guilty
12 on a plea of nolo contendere for violating Vehicle Code section 23152(b) (drive with 0.08% or
13 more blood alcohol level), a misdemeanor.

14 b. The circumstances surrounding the conviction are that on or about
15 November 8, 1997, Los Angeles Sheriff's Department officers arrested Respondent after she was
16 found to be driving her vehicle while under the influence of alcohol.

17 RECKLESS DRIVING

18 c. On or about July 12, 2001, in a criminal proceeding entitled *The People of*
19 *the State of California v. Vicki Lynn Miller* in Los Angeles County Superior Court, Torrance
20 Courthouse Judicial District, Case No. ISB04644, Respondent was convicted guilty on a plea of
21 nolo contendere for violating Vehicle Code section 23103(a) (reckless driving), a misdemeanor.
22 The court ordered Respondent to enter into a live-in alcohol rehabilitation program.

23 d. The circumstances surrounding the conviction are that on or about
24 May 13, 2001, Torrance Police Department officers arrested Respondent for driving under the
25 influence of alcohol/drugs and being involved in a hit and run accident with damage.
26 Respondent made about six attempts at parking her car before she was successful. The officers
27 observed Respondent to have blood shot eyes, omit a strong odor of alcohol and walk with a
28 stagger gait. Respondent told officers that while she was driving she remembered hitting

1 something and could not remember what it was or where it occurred. Respondent was arrested.

2 DUI

3 e. On or about January 31, 2002, in a criminal proceeding entitled *The*
4 *People of the State of California v. Vicki Lynn Miller* in Los Angeles County Municipal Court,
5 San Pedro Courthouse Judicial District, Case No. 1SP01931, Respondent was convicted guilty
6 on a plea of nolo contendere for violating Vehicle Code section 23152(a) (drive under the
7 influence of alcohol/drugs), a misdemeanor. The court ordered Respondent to do 180 days in
8 county jail in a live-in alcohol rehabilitation program - Victory Outreach

9 f. The circumstances surrounding the conviction are that on or about
10 August 21, 2001, Los Angeles Police Department officers arrested Respondent after she was
11 found to be recklessly driving her vehicle while under the influence of alcohol. Respondent's
12 tested BAC was 0.39%.

13 DRIVE WITH A SUSPENDED LICENSE

14 g. On or about July 25, 2005, in a criminal proceeding entitled *The People of*
15 *the State of California v. Vicki Lynn Miller* in Los Angeles County Municipal Court, Long Beach
16 Courthouse Judicial District, Case No. 5LL02919, Respondent was convicted guilty on a plea of
17 nolo contendere for violating Vehicle Code section 14601.1(a), a misdemeanor.

18 h. The circumstances surrounding the conviction are that on or about May 1,
19 2005, Long Beach Police Department officers arrested Respondent after she was observed
20 driving her vehicle to straddle lanes making unsafe roadway lane changes. Respondent was
21 driving a vehicle when her driving privilege was suspended.

22 THIRD CAUSE FOR DISCIPLINE

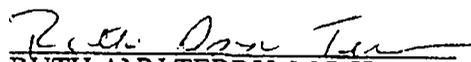
23 (Unprofessional Conduct - Convictions of Crimes Involving Alcohol)

24 15. Respondent is subject to disciplinary action under Sections 2750, 2761,
25 subdivision (a), on the grounds of unprofessional conduct as defined in Section 2762,
26 subdivision (c), in that on or about January 13, 1998, and on or about January 31, 2002,
27 Respondent sustained convictions involving the consumption or self-administration of alcohol.
28 The circumstances are set forth above in paragraph 14, subdivisions (a), (b), (e) and (f).

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4. Taking such other and further action as deemed necessary and proper.

DATED: 9/21/06


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant

Miller Accusation.wpd